

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JAMES BEARD,)	
)	
Petitioner,)	
)	
vs.)	No. CIV-12-1161-C
)	
WARDEN McCOLLUM,)	
)	
Respondent.)	

ORDER OF DISMISSAL WITHOUT PREJUDICE

This action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Shon T. Erwin, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Erwin entered a Report and Recommendation on February 28, 2013, to which Petitioner has timely objected. The Court therefore considers the matter de novo.

In his Objection, Petitioner primarily raises a number of alleged procedural errors: that the Magistrate Judge permitted the Respondent's Answer out of time; that counsel for Department of Corrections is permitted to represent the Respondent, rather than the Office of the Attorney General; and so forth. The Court finds that the ruling of the Magistrate Judge on all of these contested issues was not clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A). As to the merits, Petitioner merely disagrees with the conclusions reached by the Magistrate Judge, but does not offer any evidence or argument that the two cases referenced by Judge Erwin in his Report and Recommendation are not still on appeal at the

Oklahoma Court of Criminal Appeals, thus requiring a finding that state remedies have not been exhausted.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, this petition for habeas corpus relief is dismissed without prejudice.

IT IS SO ORDERED this 13th day of March, 2013.



ROBIN J. CAUTHRON
United States District Judge